IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 19629 of 2003

Between:

Guduri Appala Narasimha Raju, S/o Ramachandra Raju,
R/o Kondala Agraharam, Makavarapalem Mandal, Visakhapatnam.

..... PETITIONER

AND

1 The Joint Collector, Visakhapatnam.
2 TheMandal Revenue Officer, Makavarapalem Mandal.
3 Smt.B.Kameswari, W/o B.N.Sarma, GPA Holder of

Sri P.V.R.Subrahmanyam, Dr.No.15-10-6(1), Sitha Vilas,

M.R.Peta, Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Certiorari calling for records pertaining to the proceedings No.R.C.No.2621/2002 D.2 dated 25-08-2003 of the 1st Respondent and to quash the same holding that it is illegal, arbitrary, capricious, malafide, ultra-vires and under colourable exercise of jurisdiction and against the principles of natural jurisdiction and to consequently direct the respondents not to resort to any acts of dispossessing him from the said lands covered by the impugned order including calling back his Pattedar pass books and title deed.

Counsel for the Petitioner : MR. K.SARVA BHOUMA RAO

Counsel for the Respondent Nos.1 & 2 : GP FOR REVENUE

Counsel for the Respondent No.3 : Mr. V.Ch. Naidu

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19629 OF 2003

ORDER:

The petitioner is a resident of Kondala Agraharam Village in Makavarapalem Mandal, Visakhapatnam District. In the year 1968 the petitioner's grand-father allegedly purchased land admeasuring Acs.29.33 in S.No.97 of Bheemaboyinapalem Village from Boyya Narasimha Sarma under agreement of sale dt.24.5.1968. The petitioner claims that though sale deed was not executed, the agreement was acted upon and the petitioner's grand-father and after his death, petitioner were in possession of the property. The revenue records were also accordingly mutated. It appears, when A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, the Land Reforms Act) came into force, petitioner's father Ramachandra Raju, petitioner and his brothers filed a declaration showing the land in S.No.97 as forming part of their agricultural holding. They were held to be surplus holders by the original authority. In the appeal being L.R.A.No.153 of 1976 they were declared as non-surplus holders. The petitioner also alleges that subsequently petitioner's family sold an extent of Acs.16.55 to third parties wherein allegedly B.N.Sarma, the vendor also joined as vendor. The petitioner alleges that the remaining extent of Acs.11.19 continued to be in force. In 2002 the petitioner also obtained pattadar pass books, title deeds under the provisions of A.P.Rights in

Land and Pattadar Pass Books Act, 1971 (for short, the Pattadar Pass Books Act). Third respondent herein, who is wife of B.N.Sarma, claiming herself to be G.P.A holder of her brother P.V.R.Subrahmanyam preferred a revision before first respondent under Section 9 of the Act praying cancellation of the pattadar pass books/title deeds issued by second respondent. Assailing the said order dt.25.8.2003, present Writ Petition is filed.

The learned counsel for the petitioner contends that P.V.R.Subrahmanyam died and therefore third respondent could not have represented dead person as G.P.A.holder. Secondly, it is contended that first respondent has no power of jurisdiction to cancel pattadar pass books issued to petitioner and that first respondent ignored the effect of sale agreement dt.25.8.1980 under which brother of third respondent allegedly purchased land in S.No.97 from Guduru Ramachandra Raju which was not acted upon.

The learned Counsel, however, does not dispute that the issue of pattadar pass books/title deeds under the Act cannot be contrary to the provisions of the Land Reforms Act, Urban Land (Ceiling and Regulation) Act, 1976, etc. Learned Assistant Government Pleader for Revenue (General) relies on the judgment of the Division Bench of this Court, to which I was a Member, in **Pydi Hariya v. R.D.O., Kandukuru Division** in support of the contention that as per Rule 9 of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (for short, the Rules), it is not competent for any authority under the Pattadar Pass Books Act to issue pattadar pass books when the matters are pending before land ceiling authorities. First respondent in paragraph-7 of the impugned order observed as under:

I have perused the connected records and also material filed by the petitioner and respondent. The main point for consideration is whether the Mandal Revenue Officer can issue PPB/TD for the land in question when it is pending for adjudication before the L.R.A.T. which is a statutory court under the provisions of the A.P.L.R. (COACH) Act. The respondent is aware of this fact, as his brother Sri Guduru Venkataraju has also filed a declaration before the Land Ceiling authorities. The filing of the declaration by Sri Guduru Venkataraju, the brother of the respondent has also been discussed in the judgments referred in the Para 3 above. But the respondent has not informed about these facts to the Mandal Revenue Officer, Makavarapalem at the time of filing of his application or at enquiry conducted by the Revenue authorities about the eligibility of the respondent to obtain the PPB. Thus, it is construed that the respondent has mislead and misrepresented the Mandal Revenue Officer and obtained the PPB/TD in the year 2002.

A reading of the above would show that the only factor that weighed with first respondent is pendency of the dispute under the Land Reforms Act. On that ground pattadar pass books issued in 2002 were cancelled and the matter was remitted to second respondent for further necessary action. Therefore, it must be held that first respondent has come to correct conclusion. The Division Bench of this Court in **Pydi Hariya case** (supra) after referring to Rule 9 held as under:

The pre-requisite for exercising the power under Rule 9 for change of Registry is that the recording authority shall satisfy that the change of registry is not in contravention of the provisions of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973)

and several other Acts stated hereinabove. …It is not in dispute that a lis is pending before the Land Reforms Tribunal as regards declarations made by Saibaba Baidu and Hari Prasada Rao, the grand sons of late Subbamma. …The question as to what would be the surplus land available at the hands of the appellants having regard to the extent of lands which are the subject-matter of Will as also the lands held and possessed by the appellants independent thereof is pending consideration before the Land Reforms Tribunal. … It, therefore, cannot be said that the action of the respondents herein in not issuing the title deeds is so irrational so that this Court exercising the extraordinary writ jurisdiction under Article 226 of the Constitution can interfere with the matter. It is now a well settled principle of law that a writ of certiorari can be issued only when the appellants have acted wholly without jurisdiction.

First respondent remanded the matter to second respondent and therefore the petitioner is at liberty to raise all the grounds before the second respondent. The impugned order cannot be faulted on the grounds urged before this Court having regard to the above Division Bench Judgment.

The Writ Petition is devoid of merit and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

02.11.2004

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To

1 The Joint Collector, Visakhapatnam.
2 The Mandal Revenue Officer, Makavarapalem Mandal, Visakhapatnam

District.
3. 2CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

4. 2CD copies